

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DR. JOHN A. REPICCI and LORRAINE REPICCI,  
Individually, and JULIE STONE as Trustee of the  
JOHN A. REPICCI IRREVOCABLE LIFE  
INSURANCE TRUST and THE REPICCI  
IRREVOCABLE FAMILY TRUST,

Plaintiffs,

v.

CHRISTOPHER R. JARVIS and OJM Group LLC,

Defendants.

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**DECLARATION OF  
ANDREW P. DEVINE IN  
SUPPORT OF OJM'S  
MOTION FOR  
JUDGMENT ON THE  
PLEADINGS AS  
AGAINST PLAINTIFFS'  
COMPLAINT**

Case No. 1:17-CV-132-  
WMS-MJR

Andrew P. Devine, Esq., declares under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I am attorney duly admitted to practice in New York State and this Court, and am associated with Phillips Lytle LLP, counsel for defendant OJM Group, LLC (“OJM”).

2. I offer this declaration in support of OJM's motion for judgment on the pleadings as against plaintiff's Complaint, seeking dismissal of plaintiffs' Complaint as against OJM, with prejudice and without leave to replead.

3. Attached as **Exhibit 1** is a copy of plaintiff's Summons and Complaint, filed January 6, 2017 in the Erie County Clerk's Office.

4. Attached as **Exhibit 2** is a copy of plaintiff's Lincoln life insurance policy (Policy No. 7317144) (“2006 Policy”), dated December 21, 2006. We received this

document from defendant Christopher R. Jarvis, in response to his subpoena to Lincoln Life Insurance Company.

5. Attached as **Exhibit 3** is a copy of OJM's Articles of Incorporation that were filed with the Ohio Secretary of State on July 11, 2007, along with the Ohio Secretary of State's Business Entity Details for OJM.

6. Attached as **Exhibits 4 and 5** are copies of OJM's Amended Limited Liability Company Certificates filed with the Ohio Secretary of State on October 23, 2008, and July 5, 2012, respectively.

7. Attached as **Exhibit 6** is a copy of OJM's Notice of Removal, filed in the United States District Court for the Western District of New York on February 13, 2017.

8. Attached as **Exhibit 7** is a copy of OJM's Answer, filed on April 21, 2017.

9. For the reasons set forth in the accompanying memorandum of law, OJM requests that the Court dismiss the Complaint with prejudice, and without leave to replead.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 26, 2017, in Buffalo, New York.

*/s/ Andrew P. Devine*

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Andrew P. Devine